

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**HB 84 – SB 1157**

March 20, 2014

**SUMMARY OF ORIGINAL BILL:** Extends the open container law to passengers in the vehicle. Passengers in vehicles for hire or the living quarters of a house coach or trailer are exempted from the open container law.

**FISCAL IMPACT OF ORIGINAL BILL:**

Increase State Revenue – \$19,200  
Increase State Expenditures – Not Significant

Increase Local Revenue – \$1,000  
Increase Local Expenditures – Not Significant

Other Fiscal Impact – To the extent passage of this bill brings Tennessee into full compliance with federal open container requirements, a transfer of funding from the Federal Highway Administration (FHWA) to the National Highway Traffic Safety Administration (NHTSA) will stop. The net impact will be an average of an additional \$1,500,000 in federal funding available annually to TDOT from the FHWA. Such determination will be made by the NHTSA and the FHWA.

**SUMMARY OF AMENDMENT (014769):** Redefines the definition of “passenger area” such that passenger area does not include a locked glove compartment, the area behind the last upright seat, or an area not normally occupied by the driver or passenger in a motor vehicle without a trunk. Makes a technical correction regarding a citation reference. Changes the effective date from July 1, 2013, to July 1, 2014. Adds language stating that the Class C misdemeanor, proposed in the original bill, is punishable by a fine not to exceed \$40.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

Increase State Revenue – \$14,400  
Increase State Expenditures – Not Significant

Increase Local Revenue – \$800  
Increase Local Expenditures – Not Significant

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**Other Fiscal Impact – To the extent passage of this bill brings Tennessee into full compliance with federal open container requirements, a transfer of funding from the Federal Highway Administration (FHWA) to the National Highway Traffic Safety Administration (NHTSA) will stop. The net impact will be an average of an additional \$1,500,000 in federal funding available annually to TDOT from the FHWA. Such determination will be made by the NHTSA and the FHWA.**

Assumptions for the bill as amended:

- A violation of the open container law is classified as a Class C misdemeanor.
- Based on information provided by the Department of Safety (DOS), the current average fine for a violation of the open container law is \$40. It is assumed the average fine for violation of the open container law under the provisions of the bill as amended will be \$30.
- According to DOS, there are approximately 650 violations of the open container law committed by drivers each year.
- A 75 percent collection rate for these fines.
- DOS estimates the number of violations by passengers to be 675 per year, resulting in a recurring increase in fine revenue of \$15,188 ( $675 \times \$30 \times 75.0\%$ ).
- Local governments receive a five percent court clerk fee. As a result, the recurring increase in local government revenue is estimated to be \$759 ( $\$15,188 \times 5.0\%$ ).
- The remaining 95 percent is retained by the state. As a result, the recurring increase in state revenue is estimated to be \$14,429 ( $\$15,188 \times 95.0\%$ ).
- Any cost associated with extending the law to passengers will be not significant.
- Pursuant to 23 CFR, Part 1270, federal funding in an amount equal to three percent of funds apportioned to the state in that fiscal year is transferred from the FHWA programs to NHTSA programs. This transfer will stop when the state is in compliance with the requirements of federal Title 23 CFR Part 1270 (open container law).
- Federal funding received from the FHWA provides funding for certain highway related programs such as the national highway system, the surface transportation system, and interstate maintenance.
- Federal funding received from the NHTSA provides funding for section 402 programs such as alcohol counter-measures, occupant protection, police traffic services, emergency medical services, traffic records, motorcycle safety, pedestrian and bicycle safety, non-construction aspects of roadway safety, and speed control.
- Once the state is in full compliance with the federal open container requirements, an additional average of \$1,500,000 in federal funding will be available annually to the Tennessee Department of Transportation (TDOT) from the Federal Highway Administration (FHWA). These funds will be in addition to the amount currently available to the state from the National Highway Traffic Safety Administration (NHTSA).

- According to TDOT, it cannot be determined whether this bill will bring Tennessee into full compliance with federal open container requirements. Such determination is made by the NHTSA and the FHWA.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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